

### **REMARKS/ARGUMENTS**

In the Office Action mailed October 2, 2007 (hereinafter, "Office Action"), claims 1-18 stand rejected under 35 U.S.C. § 102. Claims 10, 13 and 15 have been amended.

Applicants respectfully respond to the Office Action.

#### **I. Claims 1-18 Rejected Under 35 U.S.C. § 102(e)**

Claims 1-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,920,555 to Peters et al. (hereinafter, "Peters"). This rejection is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims at issue are patentably distinct from Peters. Peters does not disclose all of the limitations in these claims.

Claim 1 recites "using an imaging tool to write the image to the hard drive of the computer system, wherein the imaging tool uses a temporary file system to access the image, wherein the temporary file system is transparent to the imaging tool and wherein the temporary file system is not the file system of the hard drive." Peters does not disclose this claimed subject matter.

Instead Peters states:

A first step provides a migration content storage partition in the computer system; this partition will hold migration content such as user settings that are being migrated from an old operating system to an upgraded or new operating system on the computer... A second major step saves migration content (i.e., user profile information such as user settings and/or user data) into the provided migration content storage partition... A third major step deploys an

image into a partition of the computer system, overwriting that partition's copy of user profile information that was first saved to the migration partition... A fourth major step then uses the migration tool to restore migration content from the migration content storage partition into the newly imaged partition.

(Peters, col. 2, lines 20-57.)

The above cited portion of Peters does not disclose “wherein the imaging tool uses a temporary file system to access the image... wherein the temporary file system is not the file system of the hard drive” as suggested by the Office Action. Providing “a migration content storage partition in the computer system; this partition will hold migration content” is neither a “temporary file system” nor a “temporary file system [that] is... not the file system of the hard drive.” The above cited portion of Peters does not disclose anything about file systems or temporary file systems. Applicants respectfully submit that disclosing a “storage partition in the computer system” does not disclose a “temporary file system [that] is... not the file system of the hard drive.”

Peters further states that “during a user profile restoring step 212 the migration content is read back from its temporary storage location and applied to the newly image partition.” (Peters, col. 8, lines 36-38.) A “temporary storage location” is not a “temporary file system [that] is... not the file system of the hard drive.” Whether a storage location is “temporary” has nothing to do with the type of file system being used to access it. Thus, the above cited portion of Peters makes no mention of a temporary file system or that the temporary file system is not the file system of the hard drive.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from Peters. Accordingly, Applicants respectfully request that the rejection of claim 1 be withdrawn because Peters does not disclose all of the subject matter of claim 1.

Claims 2-9 depend either directly or indirectly from claim 1. Accordingly, Applicants respectfully request that the rejection of claims 2-9 be withdrawn.

Claims 10 and 15 include subject matter similar to the subject matter of claim 1. As such, Applicants submit that claims 10 and 15 are patentably distinct from Peters for at least the same

reasons as those presented above in connection with claim 1 and request that the rejection of these claims be withdrawn.

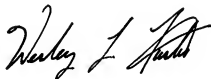
Claims 11-14 depend either directly or indirectly from claim 10. Accordingly, Applicants respectfully request that the rejection of claims 11-14 be withdrawn.

Claims 16-18 depend either directly or indirectly from claim 15. Accordingly, Applicants respectfully request that the rejection of claims 16-18 be withdrawn.

## **II. Conclusion**

Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wesley L. Austin', with a stylized flourish at the end.

/Wesley L. Austin/

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Wesley L. Austin  
Reg. No. 42,273  
Attorney for Applicants

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MADSON & AUSTIN  
15 West South Temple, Suite 900  
Salt Lake City, Utah 84101  
Telephone: (801) 537-1700